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July 9, 2021

VIA ECF

Hon. Laura T. Swain
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: *AMCO Insurance Co. v. CoBank, ACB*, No. 16-cv-4422-LTS-SLC

Dear Judge Swain:

I represent Plaintiffs¹ in the above-referenced action. On July 1, 2021, I provided a draft copy of this letter to CoBank's counsel and requested CoBank's consent to the relief sought herein. No response has been received.²

I write in connection with the upcoming "control date" conference scheduled for Friday, July 30, 2021. *See* Dkt. No. 168. As Your Honor is aware, the above referenced action was stayed on March 12, 2018 pending the Court's adjudication of the parties' motions for summary judgment, and motions related thereto. *See* Dkt. No. 95 (the "Stay Order"). That Stay Order provided that "[a]ll proceedings in this action subsequent to the March 13, 2018 deadline for dispositive pre-trial motions, and unrelated to any dispositive pre-trial motions, are STAYED." *Id.*

¹ Plaintiffs are AMCO Insurance Co., American Family Life Assurance Co. of Columbus, Americo Financial Life and Annuity Insurance Co., Athene Annuity and Life Co., Bank of Utica Investment Subsidiary, Ltd., Beaumont Health, Bio-Rad Laboratories, Inc., Continental Casualty Co., Crestbrook Insurance Co., Dedham Institution for Savings, Ephrata National Bank, Erie Family Life Insurance Co., Federated Life Insurance Co., Great Southern Life Insurance Co., Health Care Service Corp., Metropolitan Life Insurance Co., Mutual of America Life Insurance Co., Nationwide Life and Annuity Insurance Co., Nationwide Life Insurance Co., Nationwide Mutual Insurance Co., The Northwestern Mutual Life Insurance Co., Ohio National Life Assurance Corp., The Ohio National Life Insurance Co., Scottsdale Insurance Co., Scottsdale Surplus Lines Insurance Co., Tauck, Inc., Thrivent Financial for Lutherans, Veterinary Pet Insurance Co., Victoria Fire & Casualty Co., and Waukesha State Bank.

² Based on a June 9, 2021 conversation between counsel for the parties, I believe that the Defendant supports, in broad terms, the relief that is sought herein.

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Thus, the Stay Order provided that all trial-related case proceedings were stayed while the Court adjudicated dispositive pre-trial motions filed by the March 13, 2018 deadline.

The parties filed motions for summary judgment on March 13, 2018 (the “Summary Judgment Motions”). *See* Dkt. Nos. 99, 104. On May 24, 2018, Plaintiffs filed a Motion to Strike in Part Defendant’s Response to Plaintiffs’ Statement of Undisputed Material Facts Pursuant to Local Rule 56.1 (the “Motion to Strike”). *See* Dkt. No. 138. The Motions for Summary Judgment and Motion to Strike are undecided and remain pending before this Court.

Plaintiffs write to alert the Court that the above-referenced Summary Judgment Motions and the Motion to Strike do not appear on any the most recent “Report of Motions Pending Over Six Months.” *See* https://www.uscourts.gov/sites/default/files/data_tables/cjra_8_0930.2020.pdf, at 252 of 2,014 (as of September 30, 2020) (accessed on July 9, 2021). Further, neither of the Motions for Summary Judgment nor the Motion to Strike appear on earlier versions of that report.

Similarly, the above referenced case does not appear on the most recent “Report of All Civil Cases Pending Over Three Years.” *See* https://www.uscourts.gov/sites/default/files/data_tables/cjra_7_0930.2020.pdf, at 476-477 of 4,155 (as of September 30, 2020) (accessed on July 9, 2021). Further, this action does not appear on earlier versions of that report.

Therefore, Plaintiffs respectfully request that the Court order that the Clerk of the Court for the Southern District of New York add the above referenced case, as well as the Motions for Summary Judgment and Motion to Strike, to the aforementioned reports prepared under the Civil Justice Reform Act of 1990.

Additionally, Plaintiffs write to offer to appear before the Court at the scheduled July 30, 2021 control date conference to answer any questions that the Court may have concerning the pending summary judgment motions. This offer is not intended to substitute for the Plaintiffs’ request for oral argument on the summary judgment motions. Rather, this offer is intended to aid the Court’s adjudication of the parties’ summary judgment motions, while being mindful of issues of judicial economy and the competing demands on the Court’s resources.

Respectfully submitted,

By: /s/ Gordon Z. Novod

Gordon Z. Novod, Esq.

This case is no longer stayed. The remaining pretrial deadlines are, however, suspended pending resolution of the pending dispositive motion practice and further order of the Court. The Court thanks the parties for bringing the record-keeping issue and the pending motions, which are under advisement, to the Court's attention, and for the parties' patience while the Court resolves the motions, which are taken on submission and will appear on the next 6-month list if not resolved before the next reporting date. The parties will be informed if the court requires oral argument or any further information, and will be notified by the ECF system upon the entry of the decision. The conference control date is adjourned to December 3, 2021 at 11:00AM. DE #169 resolved.

SO ORDERED.

/s/ Laura Taylor Swain, Chief USDJ 7/12/2021

cc: All Counsel of Record (via ECF notification)